



General Assembly

January Session, 2011

Raised Bill No. 1215

LCO No. 4854

04854_____FIN

Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

***AN ACT CONCERNING CERTAIN CIGARETTE TAX VIOLATIONS AND
OTHER CHANGES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 12-286 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2011*):

4 (e) (1) Any person who knowingly sells, offers for sale or possesses
5 with intent to sell any cigarettes, without a dealer's license as provided
6 in this chapter, shall be fined not more than five hundred dollars or
7 imprisoned for not more than three months, or both, for each offense.
8 Each day of such unauthorized operation may be deemed a separate
9 offense. The provisions of this subdivision shall not apply to any
10 person whose dealer's license has expired, provided the period of
11 operation without such license has not exceeded ninety days from the
12 date of expiration.

13 (2) Any person who knowingly sells at retail, offers for sale at retail
14 or possesses with intent to sell at retail any taxed tobacco products, as
15 defined in section 12-330a, without a dealer's license as provided in

16 this chapter, shall be fined not more than five hundred dollars or
17 imprisoned for not more than three months, or both, for each offense.
18 Each day of such unauthorized operation may be deemed a separate
19 offense. The provisions of this subdivision shall not apply to any
20 person whose dealer's license has expired, provided the period of
21 operation without such license has not exceeded ninety days from the
22 date of expiration.

23 (3) Any person whose dealer's license has expired and who
24 knowingly sells at retail, offers for sale at retail or possesses with intent
25 to sell at retail any cigarettes or taxed tobacco products, as defined in
26 section 12-330a, where such person's period of operation without such
27 license has not exceeded ninety days from the date of expiration of
28 such license, shall have committed an infraction and shall be fined
29 ninety dollars.

30 Sec. 2. Subsection (a) of section 12-304 of the general statutes is
31 repealed and the following is substituted in lieu thereof (*Effective July*
32 *1, 2011*):

33 (a) (1) No distributor shall sell, and no other person shall sell, offer
34 for sale, display for sale or possess with intent to sell, any cigarettes
35 ~~[(1)]~~ (A) which do not bear stamps evidencing the payment of the tax
36 imposed by this chapter, or ~~[(2)]~~ (B) the stamping of which is
37 prohibited by subsection (b) of section 12-302 or subsection (b) of
38 section 12-303, provided a licensed dealer may keep on hand, at the
39 location for which such dealer's license is issued, unstamped cigarettes,
40 other than cigarettes, the stamping of which is prohibited by
41 subsection (b) of section 12-303, for a period not exceeding twenty-four
42 hours. Any unstamped cigarettes in the possession of a dealer shall be
43 presumed to have been held by such dealer for more than twenty-four
44 hours unless proof is shown to the contrary.

45 (2) [Any] Except as provided in subdivision (3) of this subsection,
46 any person who knowingly violates any provision of subdivision (1) of
47 this subsection shall be fined not more than one thousand dollars or

48 imprisoned not more than one year or both.

49 (3) Any licensed dealer who knowingly violates any provision of
50 subdivision (1) of this subsection shall have committed an infraction
51 and shall be fined ninety dollars, provided (A) the quantity of
52 unstamped cigarettes in the possession of such dealer does not exceed
53 six hundred cigarettes, and (B) it is such dealer's first violation of the
54 provisions of this subsection.

55 Sec. 3. Section 12-487 of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective July 1, 2011*):

57 (a) Each motor carrier operating or causing to be operated on any
58 highway in this state any qualified motor vehicle, as defined in section
59 12-478, solely and exclusively in intrastate commerce shall register
60 each such vehicle with the Commissioner of Revenue Services, for a fee
61 of ten dollars per vehicle, which registration shall be renewable
62 annually. On the registration of any such vehicle, said commissioner
63 shall provide identification markers for such vehicle to be affixed to
64 the lower rear portion of the exterior side of the vehicle's doors. Such
65 marker shall remain the property of the state and may be recalled for
66 any violation of the provisions of this chapter or of the regulations
67 promulgated hereunder.

68 (b) (1) Each motor carrier operating or causing to be operated on
69 any highway in this state any qualified motor vehicle, as defined in
70 section 12-478, in interstate commerce shall, if such carrier's base
71 jurisdiction is this state, for purposes of any agreement entered into by
72 the commissioner under subsection (c) of section 12-486, register each
73 such vehicle with the Commissioner of Revenue Services, for a fee of
74 ten dollars per vehicle, which registration shall be renewable annually.
75 On the registration of any such vehicle, the commissioner shall provide
76 identification markers for such vehicle to be affixed as required by
77 such agreement. Such marker shall remain the property of the state
78 and may be recalled for any violation of the provisions of this chapter
79 or of the regulations adopted thereunder.

80 (2) Each motor carrier operating or causing to be operated on any
81 highway in this state any qualified motor vehicle, as defined in section
82 12-478, in interstate commerce shall, if such carrier's base jurisdiction is
83 other than this state, for purposes of any agreement entered into by the
84 commissioner under subsection (c) of section 12-486, affix, in the
85 manner required by such agreement, identification markers to such
86 vehicle.

87 (c) No person shall operate or cause to be operated any such vehicle
88 in this state unless such vehicle bears the identification markers
89 required by this section, provided the commissioner by letter or
90 telegram may authorize the operation, for a period not to exceed ten
91 days as to any one motor carrier, of a vehicle or vehicles without such
92 identification marker when the enforcement of this section would
93 cause undue delay and hardship in the operation of such vehicle or
94 vehicles and when the enforcement of this chapter will not be
95 adversely affected. Any person operating or causing to be operated in
96 this state any qualified motor vehicle, as defined in section 12-478, to
97 which the identification markers required by this section or any
98 regulations adopted in accordance with the provisions of chapter 54
99 are not properly affixed shall have committed an infraction, the fine for
100 which shall be ninety dollars. Any [provision of the general statutes to
101 the contrary notwithstanding, any] person who is alleged to have
102 committed such an infraction [shall follow the procedures set forth in]
103 may pay the fine by mail or plead not guilty under the provisions of
104 section 51-164n.

105 (d) (1) For purposes of this subsection, "dyed diesel fuel" means
106 diesel fuel that has been dyed in compliance with, or in intended
107 compliance with, regulations adopted under Section 4082 of the
108 Internal Revenue Code of 1986, or any subsequent corresponding
109 internal revenue code of the United States, as amended from time to
110 time; "highway" has the same meaning as provided in section 14-1; and
111 "motor vehicle" has the same meaning as provided in section 14-1, but
112 does not include any passenger motor vehicle, as defined in section 14-

113 1, or any passenger and commercial motor vehicle, as defined in
114 section 14-1.

115 (2) Any person operating or causing to be operated on any highway
116 any motor vehicle that contains in the fuel supply tank of the
117 propulsion engine of such vehicle dyed diesel fuel shall, unless
118 permitted to do so under a federal law or regulation relating to the use
119 of dyed diesel fuel on the public highways, shall be fined not more
120 than one thousand dollars.

121 (3) Any person who, upon request by an authorized official of the
122 Department of Revenue Services or another state agency, refuses to
123 allow an inspection of the fuel supply tank of the propulsion engine of
124 a motor vehicle shall be fined not more than one thousand dollars.

125 (4) Any person who is alleged to have violated a provision of this
126 subsection may pay the fine by mail or plead not guilty under the
127 provisions of section 51-164n.

128 Sec. 4. Subdivision (2) of subsection (b) of section 12-687 of the
129 general statutes is repealed and the following is substituted in lieu
130 thereof (*Effective from passage and applicable to payments for tax periods*
131 *beginning on or after July 1, 2011*):

132 (2) (A) Where any tax payment is treated under this subsection as a
133 tax payment not made in a timely manner because it is made by other
134 than electronic funds transfer, there shall be imposed a penalty
135 computed as follows: (i) For the first imposition of a penalty under this
136 subparagraph relating to a tax period beginning on or after January 1,
137 2012, the penalty shall be equal to ten per cent of the tax payment
138 required to be made by electronic funds transfer, or five thousand
139 dollars, whichever is less; (ii) for the second imposition of a penalty
140 under this subparagraph relating to a tax period beginning on or after
141 January 1, 2012, the penalty shall be equal to ten per cent of the tax
142 payment required to be made by electronic funds transfer, or ten
143 thousand dollars, whichever is less; and (iii) for the third or any

144 subsequent imposition of a penalty under this subparagraph relating
 145 to a tax period ending on or after January 1, 2012, the penalty shall be
 146 equal to ten per cent of the tax payment required to be made by
 147 electronic funds transfer.

148 (B) Where any tax payment made by electronic funds transfer is
 149 treated under this subsection as a tax payment not made in a timely
 150 manner because the bank account designated by the department is not
 151 credited by electronic funds transfer for the amount of the tax payment
 152 on or before the due date thereof, there shall be imposed a penalty
 153 equal to two per cent of the tax payment required to be made by
 154 electronic funds transfer, if such failure to pay by electronic funds
 155 transfer is for not more than five days, five per cent of the tax payment
 156 required to be made by electronic funds transfer, if such failure to pay
 157 by electronic funds transfer is for more than five days but not more
 158 than fifteen days, and ten per cent of the tax payment required to be
 159 made by electronic funds transfer, if such failure to pay by electronic
 160 funds transfer is for more than fifteen days.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	12-286(e)
Sec. 2	<i>July 1, 2011</i>	12-304(a)
Sec. 3	<i>July 1, 2011</i>	12-487
Sec. 4	<i>from passage and applicable to payments for tax periods beginning on or after July 1, 2011</i>	12-687(b)(2)

Statement of Purpose:

To adjust certain penalties assessed under the cigarette tax, to prohibit impermissible use of dyed diesel fuel, and to provide different penalties for untimely tax payments made by electronic funds transfer.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

